

Article - Public Safety

[\[Previous\]](#)[\[Next\]](#)

§13A–504.

(a) A commissioned officer of the State military forces is eligible to serve on all courts–martial for the trial of a person subject to this title.

(b) A warrant officer of the State military forces is eligible to serve on general and special courts–martial for the trial of a person subject to this title, other than a commissioned officer.

(c) (1) An enlisted member of the State military forces is eligible to serve on general and special courts–martial for the trial of an enlisted member subject to this title, but that member shall serve as a member of a court only if, before the conclusion of a session called by the military judge under § 13A–704 of this title prior to trial or, in the absence of such a session, before the court is assembled for the trial of the accused, the accused personally has requested orally on the record or in writing that enlisted members serve on it.

(2) (i) After such a request, the accused may not be tried by a general or special court–martial, the membership of which does not include enlisted members in a number equal to at least one–third of the total membership of the court, unless eligible enlisted members cannot be obtained on account of physical conditions or military exigencies.

(ii) If such members cannot be obtained, the court may be assembled and the trial held without the members, but the convening authority shall make a detailed written statement, to be appended to the record, stating why the members could not be obtained.

(d) When it can be avoided, a person subject to this title may not be tried by a court–martial, any member of which is junior to the accused in rank or grade.

(e) (1) When convening a court–martial, the convening authority shall detail as members of the authority such members of the State military forces as, in the convening authority’s opinion, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament.

(2) A member of the State military forces is not eligible to serve as a member of a general or special court–martial if the member is the accuser or a witness or has acted as investigating officer or as counsel in the same case.

(f) (1) Before a court–martial is assembled for the trial of a case, the convening authority may excuse a member of the court from participating in the case.

(2) The convening authority may delegate the authority under this subsection to a judge advocate or to another principal assistant.

(g) The accused in a court–martial with a military judge and members may, after the findings are announced and before any matter is presented in the sentencing phase, request, orally on the record or in writing, sentencing by members.

[\[Previous\]](#)[\[Next\]](#)